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EXAMINER	
SPIEGEL, MICHAEL A	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/897,750	Applicant(s) SUZUKI, KATSUYA
	Examiner Michael A Spiegel	Art Unit 2175

PRS

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 March 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10,12-32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 12-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

DIANE D. MIZRAHI
PRIMARY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *04 February 2002* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 3/25/03 have been fully considered but they are not persuasive.

As to Applicant's arguments beginning on page 5, Applicant argues that Hall et al., by itself or in combination with Crawford or Midgley et al., does not disclose, teach, or suggest the claim limitation "storage condition designating means" and its variants and corresponding features.

Examiner respectfully disagrees. Applicant's listing of features on page 6 and 7 are not specifically claimed. The claims are silent as to matters of backup timing and specifics of the different backup modes. As to Claim 15, Hall et al. specifically teaches that backup can be performed at any designated time, including the end of an exam session and at the end of the day (Col. 4, lines 54-55; Col. 3, lines 64-67). With regards to the accounting features, in Examiner's broadest reasonable interpretation, the claim limitations regarding accounting are taught by Crawford. Applicant's claims regarding these features are sufficiently broad to allow this interpretation and do not demonstrate a structural difference between the present invention and the prior art of record.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless -
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1,2,4,5,10,15, and 20-21, 26-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Hall et al. (U.S. Patent No. 6,253,214).

As to Claim 1, Hall et al. teaches a medical data preservation system comprising:

medical data receiving means for receiving electronic medical data including medical information over a communication line (Fig. 1, 300);

a data storage device in which the medical data received by the medical data receiving means is stored (Fig. 1, 320&330);

storage condition designating means for use in designating a condition for storage in the data storage device (i.e. file server, Fig. 1, 310); and

a control means for controlling a data-stored state of the data storage device according to the condition for storage designated by the storage condition designating means (Fig. 1, 340).

As to Claim 2, the limitations of this claim has been noted in the rejection of Claim 1 above. Claim 2 is essentially the same as Claim 1, except that Claim 2 is directed towards a method.

As to Claim 4, Hall et al. teaches a medical data preservation system comprising:

an image backup device for preserving a backup copy of medical image data over a network over which information can be transferred (Fig. 2, 100); and

control means for controlling the image backup device according to a backup mode (Fig. 2, 340).

As to Claim 5, Hall et al. teaches a system wherein the backup mode is determined through discussion between a service

provider and a service receiver (i.e. client-server architecture, Fig. 2, 230 & 310).

As to Claim 10, Hall et al. teaches a medical data preservation method comprising:

selecting a backup mode from among a plurality of backup modes, and designating the selected backup mode as a backing up method (i.e. selecting either immediate printout, storage in the archive device, or storage in the primary and secondary storage, Col. 3, lines 20-27); and

backing up medical image data, which is stored in a storage device, in an image backup device over a network according to the designated backing up method (Fig. 3 or Fig. 4).

As to Claim 15, Hall et al. teaches a method wherein all of the medical image data stored in the storage device is backed up for each examination at a time in the image backup device (Fig. 4; Col. 4, lines 58-67; Col. 5, lines 1-2).

As to Claim 20, Hall et al. teaches a system wherein the backup mode is selected arbitrarily from among at least one of a service use period, backup timing, and a kind of backup data (i.e. full size or reduced size image backup mode selection,

file type dependent backup mode selection, Hall et al., Col. 3, lines 36-46; Col. 4, line 10-18).

As to Claim 21, Hall et al. teaches a system wherein the backup mode is determined through communication between a service provider and a service receiver (i.e. client-server architecture, Fig. 2, 230 & 310).

As to Claim 26, Hall et al. teaches a medical data preservation method comprising:

a backing up step of backing up medical image data stored in a storage device in an image backup device over a network (Fig. 2; Fig. 4); and

a selecting step of selecting one backup mode among backup timings as the backup mode of the backing up step (i.e. per exam backup, or daily backup, Col. 3, lines 64-67).

As to Claim 27, Hall et al. teaches a method wherein all of the medical image data stored in the storage device is backed up in the image backup device at any set time (Col. 3, lines 64-67; Col. 4, lines 54-55).

As to Claim 28, Hall et al. teaches a method wherein the set time is a time when every examination in one day is finished which is repeated every day (i.e. daily backups, Col. 3, lines 64-67).

As to Claim 29, Hall et al. teaches a medical data preservation method comprising:

a backing up step of backing up medical image data stored in a storage device in an image backup device over a network (Fig. 2; Fig. 4); and

a selecting step of selecting one backup mode among kinds of backup data as the backup mode of the backing up step (i.e. full size or reduced size image backup mode selection, file type dependent backup mode selection, Hall et al., Col. 3, lines 36-46; Col. 4, line 10-18).

As to Claim 30, Hall et al. teaches a method wherein all of the medical data stored in the storage device and acquired at each of a plurality of medical institutions is backed up at a time in the image backup device (i.e. backing up all of the medical image data stored in a given imaging device at a given medical institution over the course of a day, Col. 3, lines 64-67).

As to Claim 31, Hall et al. teaches a method wherein all of the medical image data stored in the storage device is backed up for each patient at a time in the image backup device (i.e. per exam based backup, Col. 3, lines 64-67).

As to Claim 32, Hall et al. teaches a method wherein all of the medical image data stored in the storage device is backed up for each of a plurality of examinations at a time in the image backup device (i.e. backing up images from a set of daily examinations, Col. 3, lines 64-67).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3, 6-9, 17-19, 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. (U.S. Patent No. 6,253,214) in view of Crawford (U.S. Patent No. 5,901,228).

As to Claim 3, Hall et al. teaches a medical data preservation method for controlling backup of medical image data using a programmed computer, comprising:

selecting a backup mode in which medical image data is backed up (i.e. selecting either immediate printout, storage in the archive device, or storage in the primary and secondary storage, Col. 3, lines 20-27);

backing up medical image data in a selected backup mode (Fig. 3 or Fig. 4);

Hall et al. does not teach performing accounting according to the selected backup mode.

Crawford teaches performing accounting according to the selected backup mode (i.e. logging CPU time, disk space, bandwidth, etc., Fig. 15, 748).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to include performing accounting according to the selected backup mode.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. by the teaching of Crawford because performing accounting according to the selected backup mode would allow the user to receive valuable services (for a fee)

which were previously not available or available through great expense and/or inconvenience, as taught by Crawford (Col. 14, lines 35-41; Abstract).

As to Claim 6, the limitations of Claims 4 and 5 are taught in by Hall et al. as noted in the 102 rejection above. Hall et al. also teaches a system, wherein the control means control a plurality of objects of backup, according to respective determined backup modes (Col. 2, lines 36-50).

Hall et al. does not teach a control means that performs accounting according to the backup mode.

Crawford teaches a control means that performs accounting according to the backup mode (i.e. logging CPU time, disk and bandwidth usage etc., as determined by the particular mode of backup, Fig. 14, 748).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to include a control means that performs accounting according to the backup mode.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. by the teaching of Crawford, because including a control means that performs accounting according to

the backup mode would allow the user to receive valuable services (for a fee) which were previously not available or available through great expense and/or inconvenience, as taught by Crawford (Col. 14, lines 35-41; Abstract).

As to Claim 7, Hall et al. teaches the limitations of Claim 4, as noted in the 102 rejection above, including a control means.

Hall et al. does not teach that the control means performs accounting according to the backup mode.

Crawford teaches a control means that performs accounting according to the backup mode (i.e. logging CPU time, disk and bandwidth usage etc., as determined by the particular mode of backup, Fig. 14, 748).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to include a control means that performs accounting according to the backup mode.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. by the teaching of Crawford, because including a control means that performs accounting according to the backup mode would allow the user to receive valuable

services (for a fee) which were previously not available or available through great expense and/or inconvenience, as taught by Crawford (Col. 14, lines 35-41; Abstract).

As to Claim 8, Hall et al. as modified teaches a system wherein the backup mode is determined through discussion between a service provider and a service receiver (i.e. client-server architecture, Hall et al., Fig. 2, 230 & 310).

As to Claim 9, Hall et al. as modified teaches a system wherein the control can control a plurality of objects of backup according to respective determined backup modes and performs accounting on each object of backup (Hall et al., Col. 2, lines 36-50; Crawford, Fig. 14, 748).

As to Claim 17, Hall et al. teaches a medical data preservation method comprising:

selecting a backup mode from among a plurality of backup modes and designating the selected backup mode as a backing up method; and

backing up medical image data, stored in a storage device, in an image backing up device over a network according to the designated backing up method.

Hall et al. does not teach performing accounting so as to calculate a charge for backup according to the selected backup mode.

Crawford teaches performing accounting so as to calculate a charge for backup according to the selected backup mode (i.e. logging CPU time, disk space, bandwidth, etc., Fig. 15, 748).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to include performing accounting so as to calculate a charge for backup according to the selected backup mode.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. by the teaching of Crawford because performing accounting so as to calculate a charge for backup according to the selected backup mode would allow the user to receive valuable services (for a fee) which were previously not available or available through great expense and/or inconvenience, as taught by Crawford (Col. 14, lines 35-41; Abstract).

As to Claim 18, Hall et al. as modified teaches a method wherein a charge for backup is calculated as a product of an

accounting point, depending on the selected backup mode, a period during which backup is continued, and a backup rate (i.e. charging based on bandwidth usage, storage space, etc., Fig. 18, 924; Fig. 22F; Fig. 22G).

As to Claim 19, Hall et al. as modified teaches a method wherein the backup mode is selected arbitrarily from among at least one of a service use period, backup timing, and a kind of backup data (i.e. full size or reduced size image backup mode selection, file type dependent backup mode selection, Hall et al., Col. 3, lines 36-46; Col. 4, line 10-18).

As to Claim 22, Hall et al. teaches the claim limitations of Claims 4, 20 and 21, as noted above, and a system wherein the control means controls a plurality of objects of backup according to the determined backup mode (Fig. 2, 340).

Hall et al. does not teach a control means that performs accounting on each object of backup.

Crawford teaches a control means that performs accounting on each object of backup (i.e. logging CPU time, disk and bandwidth usage etc., as determined by the particular mode of backup, Fig. 14, 748).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to include a control means that performs accounting on each object of backup.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. by the teaching of Crawford, because including a control means that performs accounting on each object of backup would allow the user to receive valuable services (for a fee) which were previously not available or available through great expense and/or inconvenience, as taught by Crawford (Col. 14, lines 35-41; Abstract).

As to Claim 23, Hall et al. teaches the claim limitations of Claims 4, and 20, as noted above, as well as a system wherein the control means controls the image backup device according to the backup mode (Col. 2, lines 36-50).

Hall et al. does not teach a control means that performs accounting according to the backup mode.

Crawford teaches a control means that performs accounting according to the backup mode (i.e. logging CPU time, disk and bandwidth usage etc., as determined by the particular mode of backup, Fig. 14, 748).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to include a control means that performs accounting according to the backup mode.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. by the teaching of Crawford, because including a control means that performs accounting according to the backup mode would allow the user to receive valuable services (for a fee) which were previously not available or available through great expense and/or inconvenience, as taught by Crawford (Col. 14, lines 35-41; Abstract).

As to Claim 24, Hall et al. as modified teaches a system wherein the backup mode is determined through communication between a service provider and a service receiver (i.e. client-server architecture, Fig. 2, 230 & 310).

As to Claim 25, Hall et al. as modified teaches a system wherein the control means controls a plurality of objects of backup according to the determined backup mode (Hall et al., Fig. 2, 340), and performs accounting on each object of backup (i.e. logging CPU time, disk and bandwidth usage etc., as

determined by the particular mode of backup, Crawford, Fig. 14, 748).

6. Claims 12, 13, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall et al. (U.S. Patent No. 6,253,214) in view of Midgley et al. (U.S. Patent No 6,253,214).

As to Claim 12, Hall et al. teaches the limitations of independent Claim 10, as noted above.

Hall et al. does not teach a method wherein all of the medical image data stored in the storage device is backed up at a time in the image backup device at any set time.

Midgley et al. teaches a method wherein all of the medical image data stored in the storage device is backed up at a time in the image backup device at any set time (i.e. user selection of files to be backed up and backup time, backup profile, Fig. 3; Col. 11, lines 34-50).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to be able to backup all medical image data at any set time.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have

modified Hall et al. by the teaching of Midgley et al. because modifying Hall et al. to be able to backup all medical image data at any set time would allow the system administrator greater flexibility in setting backup policies that are less obtrusive and can operate in a 24/7 environment, as taught by Midgley et al. (Col. 1, lines 10-64).

Claims 13 and 14 are similar to Claim 11, in that they each specify a subset of all medical data to be backed up (patient medical data as stored in a single directory and a set of patient directories corresponding to a single medical institution), and thus are rejected under the same grounds as Claim 11, as each subset is selectable in the backup profiles of Midgley et al.

As to Claim 16, Hall et al. teaches the limitations of independent Claim 10, as noted above.

Hall et al. does not teach a method wherein the backup mode is selected and designated based on a backup period and/or an amount of data to be backed up.

Midgley et al. teaches a method wherein the backup mode is selected and designated based on a backup period and/or an amount of data to be backed up (Col. 3, lines 33-46).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. to include a backup mode which is selected and designated based on a backup period and/or an amount of data to be backed up.

It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have modified Hall et al. by the teaching of Midgley et al. because modifying Hall et al. to include a backup mode which is selected and designated based on a backup period and/or an amount of data to be backed up would allow the system administrator greater flexibility in setting backup policies that are less obtrusive and can operate in a 24/7 environment, as taught by Midgley et al. (Col. 1, lines 10-64).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened

statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A Spiegel whose telephone number is 703-305-7605. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached on 703-305-3830. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Michael Spiegel
Patent Examiner
Technology Center 2100
June 4, 2003

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